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10/099,681	03/15/2002	Paul M. Fulton	GB 010165	4928

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EXAMINER

KOROBV, VITALI A

ART UNIT	PAPER NUMBER
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2155

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/099,681

Applicant(s)

FULTON ET AL.

Examiner

Vitali Korobov

Art Unit

2155

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 30 April 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-10 and 19-28 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-10 and 19-28 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- ☐ Notice of Informal Patent Application
- ☐ Other: _____

Response to Amendment

1. This Office Action is in response to the amendment filed on 04/30/2007. Claim 19 has been amended. No claims were added or cancelled. Accordingly, claims 1-10 and 19-28 are currently pending and have been examined in this Office Action.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1-10 and 19-28 are rejected under 35 U.S.C. 102(e) as being anticipated by the U. S. Patent No. 6,587,835 issued to Treyz, hereinafter Treyz.

Regarding claim 19, Treyz teaches a method for communicating between a mobile device and a beacon device, comprising: providing interpretation data to the mobile device (38:38-46 - GPS maps are interpretation data); transmitting an alert signal to the mobile device (38:38-46 - proximity-based alerts), the alert signal being provided for prompting an alert message at a mobile device (38:38-46 - merchant's advertisements and the like); and generating the alert message by the mobile device (Fig. 50, showing messages generated on the screen of the mobile device. 39:15-17 - alert messages or icons generated by the user device in response to messages

received) based on the interpretation data in response to receiving the alert signal transmitted from the beacon device (38:38-46 - user location is determined based on interpretation data from GPS techniques or other location determination techniques, and the advertisement messages from a merchant in close proximity is displayed).

Regarding claim 20, Treyz teaches the method according to claim 19, wherein the interpretation data comprises sound or image files (38:38-46 - GPS maps are image files).

Regarding claim 21, Treyz teaches the method according to claim 19, further comprising a first group comprised of a plurality of beacon devices for wirelessly broadcasting data, wherein at least one of the beacon devices of the first group is arranged to provide the interpretation data to the mobile device to enable to interpret the signals from the beacon devices of the first group (2:28-36 - transmitters/receivers for location determination).

Regarding claim 22, Treyz teaches the method according to claim 21, further comprising a second group comprised of the beacon devices for wirelessly broadcasting data, wherein the mobile device is adapted to receive data from the first and second groups and wherein at least one of the beacon devices of the second group is arranged to provide the interpretation data to the mobile device to enable to interpret the signals from the beacon devices of the second group (2:28-36).

Regarding claim 23, Treyz teaches the method according to claim 21, wherein the at least one of the beacon devices of the first group is arranged to receive an identity of the mobile device (13:38-46 - remote "remote" communications, such as

Art Unit: 2155

cellular telephone calls, require beacon devices to have the identity of the user's wireless receiver).

Regarding claim 24, Treyz teaches the method according to claim 23, wherein at least one of the beacon device of the first group comprises means for passing the identity of the mobile device to the other beacon devices of the first group (38:23-46 local messages sent based on the data provided to local beacons from the GPS system).

Regarding claim 25, Treyz teaches the method according to claim 23, wherein the identity of the mobile device comprises profile information (38:28-32 - sending messages particular to the user based on the identity information).

Regarding claim 26, Treyz teaches the method according to claim 23, wherein the other beacon devices of the first group comprise a filter to filter the alert messages based on the identity of the mobile device (48:28-32 - sending messages particular to the user based on the identity information. Treyz also teaches filtering in 3:8-9).

Regarding claim 27, Treyz teaches the method according to claim 19, wherein the interpretation data comprises content for display during a connection procedure (2:32-37 and 11:24-27 – GPS location interpretation data may be displayed during a connection procedure).

Regarding claim 28, Treyz teaches the method according to claim 19, wherein the beacon device broadcasts using the Bluetooth protocol (13:29-32 – Bluetooth connection).

Claims 1-10 are rejected in view of the above rejection of claims 19-28. Claims 1-10 are essentially the same as claims 19-28, except that they set forth the invention as a system rather than a method, as do claims 19-28.

4. **Examiner's note:** Examiner has cited particular columns and line numbers in the references as applied to the claims above for the convenience of the applicant. Although the specified citations are representative of the teachings of the art and are applied to the specific limitations within the individual claim, other passages and figures may apply as well. It is respectfully requested from the applicant in preparing responses, to fully consider the references in entirety as potentially teaching all or part of the claimed invention, as well as the context of the passage as taught by the prior art or disclosed by the Examiner.

Response to Arguments

5. Applicant's arguments filed 04/30/2007 have been fully considered but they are not persuasive.

Prior to addressing the Applicants' arguments, the Examiner apologizes for a typo in the previous Office Action. The closing quotation mark should have been placed after the words "an appropriate wireless network". The Examiner's hope is that the missing closing quotation mark did not create any misunderstanding, since the reference to the quoted part of the reference was clearly made, indicating the column and the specific lines quoted.

The Applicants argue – *"Prior to discussing Treyz, it is respectfully submitted that the examiner refers to different portions of Treyz in claim rejections in paragraph 3 of the Office Action than in his Response to Arguments in paragraph 5 of the Office Action. If the examiner refers to particular portions of the patent, he is requested to rely on those portions in claim rejections as well."*

The Examiner respectfully refers the Applicants to the Examiner note above, which states:

Examiner's note: Examiner has cited particular columns and line numbers in the references as applied to the claims above for the convenience of the applicant. Although the specified citations are representative of the teachings of the art and are applied to the specific limitations within the individual claim, other passages and figures may apply as well. It is respectfully requested from the applicant in preparing responses, to fully consider the references in entirety as potentially teaching all or part of the claimed invention, as well as the context of the passage as taught by the prior art or disclosed by the Examiner.

The Examiner sees nothing wrong with citing particular parts of the reference in rejection of the claims, and citing additional parts of the reference in response to the arguments that provide additional support or clarification for his position, rather than repeating the citations that have already been given.

The Applicants argue: - *"As asserted in the previous response, Treyz is inapplicable to the present invention. More specifically, Treyz fails to teach or suggest, among other things, Applicant's feature of 'the alert signal being provided for prompting an alert message at the mobile wireless device,' as recited in claim 1, for example. The examiner asserts that Treyz' 'proximity-based messages ... are inherently transmitted using a wireless signal.' It is respectfully submitted that Applicant's alert signal does not carry any message, in contrast to Treyz. It is obvious that Treyz 'pushes' messages onto the user's handheld device. In contrast to Treyz, Applicant's mobile wireless device generates the alert message. So, the Treyz' so-called 'inherent' signal is not equivalent or analogous to Applicant's alert signal. Treyz' message contains information, while Applicant's alert signal contains does not contain message information. This distinction is not addressed in the Office Action. Furthermore as stated above, Treyz 'pushes"*

messages to the user, while Applicant's mobile wireless device generates the alert message. This distinction is not addressed in the Office Action. Still further, according to Treyz there is no reason to use GPS in order to interpret the messages. In Treyz, the messages are already generated prior to the reception by the user's handheld device. In contrast, Applicant's mobile wireless device generates the alert message based on the interpretation data in response to receiving the alert signal. Treyz' "canned" messages do not require any so-called GPS "interpretation" data, as alleged by the examiner, while Applicant's interpretation data is needed to generate an alert message by the mobile wireless device. This distinction is not addressed in the Office Action."

The Examiner respectfully disagrees. Col. 3, lines 1-9 of Treyz state the following:

"Various types of messages may be provided to the handheld computing device. For example, a proximity message may be provided. The user may be alerted when a message is received from a nearby merchant. The user may also be alerted to the availability of a special. Messages regarding specials may include interactive features. Messages may be provided to the user to notify the user or to remind the user of certain events. The user may adjust alert settings for various message types." (emphasis provided).

Contrary to Applicants assertions, the merchant has no capability to push icons to the user's device, which are produced by the users device in response to alerts received by the user, which is clearly disclosed at least in col. 39, lines 9-17 of Treyz, which state:

"Information displayed on screen 566 may be displayed in the form of an advertisement (e.g., text, graphics, and video that promotes a particular merchant or product or service, etc.), in the form of a logo (e.g., a logo of a merchant), in the form of a message (e.g., text), in the form of a status indicator (e.g., an icon or other indicator indicating that messages have been received or that a certain type or number of messages have been received), etc."

Therefore, the Office respectfully maintains the rejection and makes the rejection final.

Conclusion

6. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Vitali Korobov whose telephone number is 571-272-7506. The examiner can normally be reached on Mon-Friday 8a.m. - 4:30p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Saleh Najjar can be reached on (571)272-4006. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Vitali Korobov
Examiner
Art Unit 2155

VAK
07/09/2007


SALEH NAJJAR
SUPERVISORY PATENT EXAMINER